

**REMARKS/ARGUMENTS**

Applicants' amendments and remarks are in response to the Official Action mailed May 27, 2005.

In the Official Action, claims 1-35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,575,792 to *Errico* et al. in view of U.S. Patent No. 6,368,320 to *Le Couedic* et al.

In response to the rejections Applicants have amended all of the independent claims of the present application thereby rendering the rejections moot.

All of the claims of the application have been amended to include a recitation directed to a seat of the connector being integrally formed to the connector itself. This additional recitation specifically establishes that the seat on which the rod is disposed as it is translated downward, is an integral part of the connector. This is contrasted with the invention as shown in *Errico*. *Errico* discloses a locking ring 330 having a seat 333 that receives a rod displaced thereon. As the rod is pushed downward, the locking ring, a distinct and separate element from the connector 400, has a deformable end, which can be compressed.

The present invention as included in all of the claims of the present application includes a seat that is integral with the connector. The integral seat is able to apply a force to a deformable portion of the connector. By having the seat integrally formed with the connector, efficiency, time and cost is reduced as well as reducing the fiddle factor during surgery. This is because a separate and distinct element, i.e., the locking ring, does not have to be disposed over or in conjunction with the connector, in *Errico*.

With *Errico*, in a method of operation, the locking ring, a separate and distinct element from the connector, is

compressed downward about the connector by a rod acting on it. The locking ring is translated along an axis until it compresses the deformable portion of the connector about the fastener. In the present invention, the connector eliminates the requirement of the additional element, *i.e.*, locking element.

In addition, even if *Le Couedic* was combined with *Errico*, the combination would still not eliminate the requirement of the locking ring of *Errico*. Further, *Le Couedic* does not include a U-shaped opening thereby permitting top loading of a rod into a connector as included in the claims of the present application.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

Application No.: 10/031,563

Docket No.: SPINE 3.3-400

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: August 24, 2005

Respectfully submitted,

By 

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